

Sentencing Policy Study Committee

Minutes of meeting on December 11, 2003

MEMBERS IN ATTENDANCE:

Hon. Richard Good
Sen. Glenn Howard
Sheila Hudson
Stephen Johnson
Joseph Koenig
Larry Landis
Sen. David Long
Hon. David Matsey
Todd McCormack
Hon. Tanya Walton Pratt
Hon. James Williams
Evelyn Ridley-Turner

I. Call to Order and Opening Remarks

Joseph Koenig, Executive Director of the Indiana Criminal Justice Institute began the meeting by stating that the Committee Chair, Sen. David Long, was stuck in traffic and that Sen. Long had asked Mr. Koenig to chair the early part of the meeting. Joe Koenig called the meeting to order and introduced Jim Hmurovich for introductory comments on this meeting.

II. Overview of Meeting Topic by Jim Hmurovich

Jim Hmurovich, contract staff for the Committee, stated that this meeting would focus on the prevalence of mental illness in both the criminal justice population and the general population. Mr. Hmurovich stated that common themes in this meeting would be that few really understand how to coordinate mental health and criminal justice needs and that a number of illegal acts are the product of mental illness. Mr. Hmurovich went over a packet of quick facts on mental health. After providing a brief discussion of the document, Mr. Hmurovich received no questions and concluded his presentation.

III. Understanding Mental Illness and the Criminal Justice System: George Parker, M.D. Director of Forensic Psychiatry, IU School of Medicine.

Dr. Parker began his discussion by stating that he would be focusing on the connection between mental illness and criminal behavior, noting that 20% of all inmates have some type of psychotic disorder. Dr. Parker discussed the findings of the McArthur study that prospectively followed mentally ill individuals to record violent acts committed by them. Some of the findings from the study were that more than three-fourths of violent behaviors occurred when alcohol or drugs were being used, less than one-half of those individuals being studied were taking their medications, study participants were generally only as violent as their

neighborhood was, victims were often family and friends, and that the risk of violence doubles when substance abuse occurs. Dr. Parker also pointed out that sentences for mentally ill individuals average about 12 months longer than sentences for individuals without mental illness and that treatment had been proven to reduce the risk of rearrest. Dr. Parker was asked about what types of treatment had been proven effective, and responded by saying that it was difficult to say what works for everyone, but that people in treatment are generally stabilized. Dr. Parker stated that community mental health centers should adapt their practices to the people in the neighborhoods that they serve. Dr. Parker was asked about ways to define mental illness, responding that it will always be open to debate, that Indiana's insanity definition is very broad, and that the DSM IV diagnosis test was generally accepted as the best method to determine mental illnesses. Dr. Parker stated that while everyone could use more money, he felt that Indiana does a pretty good job providing services to those with mental illnesses. Dr. Parker was asked if he had any recommendations for the Committee, to which he stated that he was only prepared to present statistics and background information, not to give any recommendations.

IV. *Overview of Recommendations of the Mental Health Commission: Sen. Connie Lawson, Chair of Mental Health Commission.*

Sen. Lawson started her presentation by providing a summary of the work completed by the Indiana Commission on Mental Health. Sen. Lawson stated that in September 2002 she sponsored SB 476 that dealt with forensic diversion. Sen. Lawson noted that mental illness is an illness of the brain and that mentally ill individuals should be kept out of the prison system. Sen. Lawson was asked about any specific recommendations by the Mental Health Commission to which she responded that the Commission recommended the forensic diversion and other specific programs. Sen. Lawson wasn't exactly sure why they used community corrections language with forensic diversion, but she did know that the language that was used came from a budget perspective. When asked about model programs that Indiana might use, Sen. Lawson stated that the Mental Health Commission regularly meets and looks at programs such as the Memphis Model.

V. *Assessing Mental Illness on the Law Enforcement Front Lines: Gordon Hendry, Special Counsel, Office of the Mayor; Jerry Barker, Chief, Indianapolis Police Department; John Ball, Major, Indianapolis Police Department.*

Gordon Hendry began this portion of the meeting by stating that the focus would be on the Memphis Model that is currently being used by the Indianapolis Police Department. Mr. Hendry then went over the basics of the program. The Memphis Model helps police officers, who are often the first responders, deal with the challenges that a mentally ill suspect presents. Mr. Hendry stated that the model centers on crisis intervention teams who are police officers specially trained to deal with the mentally ill. The Memphis Model is viewed as more than just an approach to mental illness—it is a philosophy of accountability and

responsibility to the public. Mr. Hendry concluded his portion by stating that the Memphis Model now allows many incidents to be diffused without arrest and results in suspects getting the mental health attention that they need.

Chief Barker stated that he was most impressed with the improvements to officer safety under the Memphis Model. Since the police will be the first responders, Chief Barker thought it only made sense to train these officers so that they can appropriately address mental health situations. Chief Barker further stated that community policing means that police officers need to recognize the difference between criminal and social problems. Chief Barker said that the line between taking an individual to jail or sending them for treatment is drawn based on the seriousness of the offense (most are minor disturbances not warranting incarceration). When an individual is sent for treatment, Chief Barker stated that they are immediately detained in a mental health facility for three days to confirm their psychiatric condition. An arrest is made, but the individual is not taken to jail. The case is given to the prosecutor before the diversion process begins and judges get oversight of the case through the charging process. Chief Barker stated that Title 12 civil commitment is used to do this.

VI. *A Community Response to Mental Illness; Serving the Mentally Ill in the Criminal Justice System: Hon. Evan Goodman, Judge Marion County Superior Court; Lou Ransdell, Deputy Prosecutor Marion County Prosecutor's Office; Robert W. Hammerle, Attorney.*

Judge Goodman distributed a handout and discussed the PAIR mental health diversion program. Entry into the PAIR program is determined by a roundtable of prosecutors, public defenders, mental health professionals, etc. Once a case is accepted into the program, a therapist will report on a monthly basis to the court on the progress of the defendant. Judge Goodman stated that the program teaches patients to manage their own illnesses and to recognize their own problems. Financing for the program is provided by the public sector, including Medicaid. Judge Goodman stated that he would like to see the program expanded beyond misdemeanants only, would like contempt as an option for all judges, and would like for the legislature to provide for compelled medication.

Mr. Ransdell stated that his job (prosecutor) was to protect the community. Mr. Ransdell further stated that if one stepped back to look at things, it becomes obvious that most of the mentally ill individuals in the justice system need to be treated differently than most other offenders. Because jail simply won't help these people, Mr. Ransdell stated that the PAIR program was the answer. Mr. Ransdell then discussed the various diagnostic procedures that were used to determine eligibility into the PAIR program. When asked whether the program was diverting people from DOC, Mr. Ransdell said no because most of the people who get into the PAIR program would not normally be sent to DOC anyway.

Mr. Hammerle gave a defense attorney view of how to handle the mentally ill in the courts. Mr. Hammerle stated that he would like to see the eligibility for the

PAIR program expanded to include anyone who can receive a suspended sentence. Training for public defenders and prosecutors, along with a meaningful method of funding were also suggested by Mr. Hammerle. Mr. Hammerle also felt that there was a pressing need to monitor these offenders to ensure that they were taking their medications and that contempt should be added as long as it was monitored in a meaningful manner.

VII. Addressing the Mental Health Needs of Offenders Committed to the Department of Correction: Randy Koester, Deputy Commissioner, Department of Correction.

Mr. Koester began this portion of the meeting by going through the population in the DOC and how they are processed. Mr. Koester pointed out that there is a misperception that fixing the mental health issues will solve all of the offender's problems. All adults sent to DOC go through diagnostic intake, which includes screening for mental illness. After intake, Mr. Koester stated that the offender is then assigned to the facility where they will serve their sentence. Mr. Koester stated that DOC cannot force medications on offenders. Mr. Koester further stated that federal law prohibited money from coming to the state under Medicaid/care/social security until after the offender is discharged. Mr. Koester discussed the role that faith-based organizations can play, emphasizing the importance of standards for them to operate. Mr. Koester also stated that DOC was currently in the process of reviewing several pilot programs that deal with mental health issues.

VIII. Strategic Planning for Forensic Mental Health Issues: Suzanne Clifford, Director, Division of Mental Health and Addictions, FSSA.

Ms. Clifford began this portion of the meeting by stating that the Division of Mental Health and Addictions is generally responsible for funding all of the programs discussed during this meeting. The Division contracts with both community mental health centers in every county and with addiction providers across the state. Ms. Clifford stated that there were some evidence based programs that work and that while medicine was critical, these individuals need therapy as well. Ms Clifford further stated that all treatment should be funded and that an infrastructure needed to be built to aid in moving these people back into the community. The Division's priorities are to improve and enhance the current mental health system by focusing on the root causes of these problems. Ms. Clifford agreed with other panelists that formulating a precise definition of mental illness was difficult. Ms. Clifford felt that it was important to spread the available dollars around thin so more individuals could be served. Ms. Clifford stated that for every one dollar spent on addiction treatment, society would save seven to twelve dollars. It was repeated that individuals who are being held in detention were not eligible to receive Medicaid dollars.

IX. Discussion and Adjournment

Sen. Long stated that this was the last meeting for 2003; the Committee would reconvene in March or April of 2004. Sen. Long briefly discussed the formation

of a subcommittee to look at the sentencing structure in Indiana. Sen. Long thanked all of the presenters for their testimony, received one comment from the audience asking whether this always had to be about money or if some people just deserve jail time, and then adjourned the meeting.